

Self-Evaluation Report

Texas State Board of Examiners of Perfusionists



Presented to the
Sunset Advisory Commission

August 2003

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Texas State Board of Examiners of Perfusionists Self-Evaluation Report

I. Key Functions, Powers, and Duties

A. Provide an overview of the agency's mission, key functions, powers, and duties. Specify which duties are statutory.

The Texas State Board of Examiners of Perfusionists is the licensing and regulatory authority for perfusionists in Texas. The board's primary mission is to enforce licensure rules and standards for perfusionists as a means to protect and promote public health and welfare. The board accomplishes its mission within the parameters established by Texas Occupations Code, Chapter 603.

Perfusionists are members of an open heart surgical team. They select, set up, and operate the lung-heart machine which functions as the patient's heart and lungs during surgery.

The 73rd Legislature found that "the citizens of this state are entitled to the protection of their health, safety, and welfare from the unqualified or unprofessional practice of perfusion; the practice of perfusion by unauthorized, unqualified, unprofessional or incompetent persons is a threat to the public; and the practice of perfusion is a dynamic and changing health care field which is continually evolving to include more sophisticated and demanding patient care activities" (Vernon's Texas Civil Statutes, Article 4529e, Sec. 2). Accordingly, the purpose of Article 4529e was to establish minimum standards of education, training, and competency for persons engaged in the practice of perfusion and of the performance of perfusion services in a manner that provides for the continued evolution of the practice of perfusion; and to ensure that the privilege of practicing in the field of perfusion is entrusted only to those licensed and regulated under Article 4529e.

The board is organizationally placed within the Professional Licensing and Certification Division, Texas Department of Health (TDH). TDH employs staff and provides necessary facilities and infrastructure to carry out the board's functions. Board members are appointed by the governor. The board is empowered to promulgate rules necessary to carry out its duties.

Key functions, powers, and duties of the Texas State Board of Examiners of Perfusionists are:

- To establish the qualifications and fitness of applicants for licenses, including renewed and reciprocal licenses, and to issue licenses (Occupations Code § 603.151(1)).
- To revoke, suspend, or deny a license, probate a license suspension, or reprimand a license holder for a violation of the Licensed Perfusionists Act or the rules of the board (Occupations Code § 603.151(2)).
- To adopt and publish a code of ethics for perfusionists (Occupations Code § 603.151(6)).
- To adopt rules necessary to regulate the practice of perfusion, enforce the Act, govern board proceedings, and perform board duties (Occupations Code § 603.152(a)).
- To set fees in amounts reasonable and necessary to cover the costs of administering the Act (Occupations Code § 603.154).
- To prepare a registry of licensed perfusionists and provisionally licensed perfusionists (Occupations Code § 603.156).

- To adopt a form to standardize information concerning complaints made to the board and prescribe information to be provided to a person when the person files a complaint with the board (Occupations Code § 603.155).
- To prepare and distribute information of public interest describing the practice of perfusion, the regulatory functions of the board, and the procedures by which complaints are filed with and resolved by the board (Occupations Code § 603.201(a)).
- To adopt rules concerning the investigation and disposition of a complaint filed with the board (Occupations Code §§ 503.254 – 503.255).
- To establish the minimum number of hours of continuing education required to renew a perfusionist license and evaluate and approve continuing education courses (Occupations Code § 603.304(c)).

B. Does the agency's enabling law correctly reflect the agency's mission, key functions, powers, and duties?

Yes.

C. Please explain why these functions are needed. Are any of these functions required by federal law?

Public health, safety, and welfare considerations lead to the conclusion that persons practicing perfusion should be regulated. This includes demonstrating minimum educational achievement and experience, as well as adherence to professional standards in the delivery of perfusion services. Perfusionists should be required to further their knowledge and skill levels annually and report to the board events (such as criminal convictions) that could affect their fitness to practice.

Since each jurisdictional complaint is potentially a situation in which the well-being of clients is compromised, each complaint should be investigated. When an investigation indicates that a violation has occurred, it is in the public interest to initiate disciplinary proceedings against the perfusionist. Depending on the situation, a range of discipline may be imposed, up to and including revocation of the perfusionist's right to practice in this state.

Public information is necessary to inform perfusionists and citizens of Texas of practice standards and complaint procedures.

The functions of the Texas State Board of Examiners of Perfusionists are required and/or authorized by state, not federal, law.

D. In general, how do other states carry out similar functions?

According to the American Society of Extra-Corporeal Technology, 12 states regulate the practice of perfusion through licensure or certification programs established under state boards or agencies.

E. Describe any major agency functions that are outsourced.

N/A

F. Discuss anticipated changes in federal law and outstanding court cases as they impact the agency's key functions.

None anticipated.

G. Please fill in the following chart, listing citations for all state and federal statutes that grant authority to or otherwise significantly impact the agency. Do not include general state statutes that apply to all agencies, such as the Public Information (Open Records) Act, the Open Meetings Act, or the Administrative Procedure and Texas Register Act. Provide the same information for Attorney General opinions from FY 1999 - 2003, or earlier significant Attorney General opinions, that affect the agency's operations.

Texas State Board of Examiners of Perfusionists Exhibit 1: Statutes/Attorney General Opinions	
Statutes	
Citation/Title	Authority/Impact on Agency (e.g., "provides authority to license and regulate nursing home administrators")
Occupations Code, Chapter 603 Licensed Perfusionist Act	Creates the Texas State Board of Examiners of Perfusionists within the Texas Department of Health and provides authority to regulate and discipline perfusionists.
Occupations Code, Chapter 101 Health Professions Council Act	Creates the Health Professions Council and defines membership to include the licensing boards and programs of the health licensing division of Texas Department of Health (including the Texas State Board of Examiners of Perfusionists).
Occupations Code, Chapter 53 Consequences of Criminal Conviction	Provides authority to revoke, suspend, or deny a license based on criminal convictions in certain circumstances.
Education Code, § 57.491 Loan Default Ground for Nonrenewal of Professional or Occupational License	Prohibits the board from renewing the license of a licensee whose name is on a default list provided by the Texas Guaranteed Student Loan Corporation.
Family Code, Chapter 232 Suspension of License	Requires the board to suspend a license upon receipt of a court order suspending the license for failure to comply with the terms of a child custody order or failing to pay child support.
Title IV, Public Law 99-660, Health Care Quality Improvement Act of 1986 and 45 CFR Part 60.	Established the National Practitioners Data Bank. Requires the board to report certain disciplinary actions to the NPDB.
Attorney General Opinions	
Attorney General Opinion No.	Impact on Agency
No current opinions impacting the agency.	

H. Please fill in the following chart:

Texas State Board of Examiners of Perfusionists Exhibit 2: Agency Contacts				
	Name	Address	Telephone & Fax Numbers	E-mail Address
Agency Head	Pam Kaderka Executive Secretary	1100 West 49 th Street Austin TX 78756	(512) 834-6751 (512) 834-6789 fax	pam.kaderka@ tdh.state.tx.us
Board Chair	Thomas Kurt Wilkes Perfusionist			
Agency's Sunset Liaison	Stephen Mills Program Specialist	1100 West 49 th Street Austin TX 78756	(512) 834-6628 (512) 834-6677 fax	stephen.mills@ tdh.state.tx.us

II. History and Major Events

Provide a time line discussion of the agency's history, briefly describing the key events in the development of the agency, including:

- the date the agency was established;
- the original purpose and responsibilities of the agency;
- major changes in responsibilities or statutory authority;
- agency/policymaking body name and composition changes;
- the impact of state/federal legislation, mandates, and funding;
- the impact of significant state/federal litigation that specifically affects the agency's operations; and
- key organizational events, and areas of change and impact on the agency's organization (e.g., a major reorganization of the agency's divisions or program areas).

1993 The 73rd Legislature enacted the Licensed Perfusionists Act, effective January 1, 1994. The Act was codified in Vernon's Texas Civil Statutes, Article 4529e. The Act created the Texas State Board of Examiners of Perfusionists, which first met on September 15, 1994 at Texas Department of Health in Austin, Texas. The board was empowered to qualify, license, and regulate perfusionists in order to protect the public health, safety, and welfare. The board was created within the Texas Department of Health and organizationally placed with the Professional Licensing and Certification Division (PLCD).

1997 The 75th Legislature amended the Act to repeal the statutory cap on fees and to clarify exemptions for perfusionists who are not residents of Texas.

1999 The 76th Legislature recodified the Act as Texas Occupations Code, Chapter 603. The Act was also amended to grant subpoena authority to the board.

2003 The 78th Legislature amended the Act to grant authority to assess administrative penalties, to provide for a civil penalty, and to authorize the board to suspend a license on an emergency basis for violations of the Act and/or rules.

2003 The board's program and staff, along with 19 other regulatory programs housed within TDH's Professional Licensing and Certification Division (PLCD), are reorganized along functional lines, instead of a programmatic arrangement that has been in place since the division's inception in 1985. The PLCD budget (5B508 building block) was reduced by 4.5 FTEs for the biennium. The reorganization is scheduled for implementation on September 1, 2003.

III. Policymaking Structure

Texas State Board of Examiners of Perfusionists Exhibit 3: Policymaking Body					
Member Name	6 Year Terms/ Appointment Dates/ Appointed by ____	Qualification	Address	Telephone & Fax Numbers	E-mail Address
Debra Sue Douglass	August 1997 – February 2003 Governor	Perfusionist			
Steven A. Raskin	August 1997 – February 2003 Governor	Perfusionist			
Thomas A. Rawles	April 1999 – February 2005 Governor	Perfusionist			
Thomas Kurt Wilkes	April 1999 – February 2005 Governor	Perfusionist			
Jose R. Ybarra	June 1996 – February 2001 Governor	Perfusionist			
Vincent R. Conti, M.D.	June 1996 – February 2001 Governor	Physician			
H. B. Bell	June 1996 - February 2001 Governor	Public/Consumer			
Gaye Jackson	May 1999 – February 2005 Governor	Public/Consumer			
Vacant		Public/Consumer			

B. How is the chair of the policymaking body appointed?

Occupations Code § 603.056 provides that “Not later than the 30th day after the date the governor appoints new board members, the board shall meet to elect a presiding officer and an assistant presiding

officer, who hold office according to board rule.” The board’s rules at 22 TAC § 761.2(m) provide that a chairman and vice-chairman shall be elected at the board meeting held nearest to February 1 of each year and that a board member shall not serve more than two consecutive terms in either of those offices.

C. Describe the primary role and responsibilities of the policymaking body.

Powers and duties of the board are set out in Occupations Code, §§ 603.151 - 603.256.

The board’s primary role is to adopt and enforce rules relating to the licensure and regulation of perfusionists, including discipline of perfusionists found to be in violation of the Licensed Perfusionists Act or board rules.

D. List any special circumstances or unique features about the policymaking body or its responsibilities.

There are no special circumstances or unique features that distinguish the board from other regulatory boards administratively attached to TDH, Professional Licensing Division.

E. In general, how often does the policymaking body meet? How many times did it meet in FY 2002? in FY 2003?

Occupations Code § 603.057 requires the Texas State Board of Examiners of Perfusionists to hold at least two regular meetings each year. In FY 2002, the board held two meetings. In FY 2003, the board was unable to obtain a quorum for its Fall 2002 meeting. The board plans to meet next in October 2003.

F. What type of training do the agency’s policymaking body members receive?

Occupations Code § 101.101 requires the Health Professions Council to establish a training program for the governing bodies of state agencies that regulate health professions. The member must complete the training program prior to assuming the member’s duties. The training curriculum created by the Health Professions Council was adapted for regulatory programs within the Professional Licensing Division, Texas Department of Health.

The training program includes information regarding the enabling legislation; the functions of the licensing program; the role of the program and the board; the rules of the board with an emphasis on the rules that relate to disciplinary and investigatory authority; the current budget for the Board; the requirements of the open meetings law, Chapter 551, Government Code; the requirements of the open records law, Chapter 552, Government Code; the requirements of the administrative procedure law, Chapter 2001, Government Code; the requirements of the conflict of interest laws and other laws relating to public officials; and any applicable ethics policies adopted by the Texas Ethics Commission. Additionally, board members receive information concerning the board’s unique placement within the Texas Department of Health and the staff, structure, and strategic plan of the Professional Licensing and Certification Division.

G. Does the agency have policies that describe the respective roles of the policymaking body and

agency staff in running the agency? If so, please describe these policies.

Yes. Occupations Code § 603.104 requires the board to develop and implement policies that clearly define the respective responsibilities of the board and the staff of the board. The policy delineates 18 responsibilities of the board and 22 responsibilities of the board’s staff. A copy of the policy is included as Attachment 22.

H. If the policymaking body uses subcommittees or advisory committees to carry out its duties, please fill in the following chart.

Texas State Board of Examiners of Perfusionists Exhibit 4: Subcommittees and Advisory Committees			
Name of Subcommittee or Advisory Committee	Size/Composition/How are members appointed?	Purpose/Duties	Legal Basis for Committee
Complaints Committee	2 members One public board member and one perfusionist board members. Committee members are appointed by the Chair of the board for two year terms.	To consider complaints filed against licensed perfusionists. Determines whether a matter should be closed or disciplinary action proposed.	The Licensed Perfusionists Act provides that the board may adopt rules necessary to perform its duties (Occupations Code § 603.152(a)(1)). The board’s rules at 22 TAC § 681.2(n) set out requirements for the board’s committees.
Rules Committee	3 members 1 public and 2 perfusionist board members Committee members are appointed by the Chair of the board for two year terms.	To consider matters relating to rule amendments, new rules, and rule reviews.	The Licensed Perfusionists Act provides that the board may adopt rules necessary to perform its duties (Occupations Code § 603.152(a)(1)). The board’s rules at 22 TAC § 681.2(n) set out requirements for the board’s committees.

I. How does the policymaking body obtain input from the public regarding issues under the jurisdiction of the agency? How is this input incorporated into the operations of the agency?

The Texas State Board of Examiners of Perfusionists uses a variety of mechanisms to obtain and incorporate public input. The board considers obtaining and using public input to be of critical importance

in carrying out its duty to protect and promote the public health and safety by regulating the practice of perfusion.

Each committee and board meeting agenda has a public comment item. Controversial or difficult issues and public comments on those issues are comprehensively discussed in both committee and board meetings.

The board's membership structure and committee composition lend themselves to considerable input from the public. Four board members represent the public. Each board committee is made up of at least one public member.

In the area of rulemaking, the board notifies stakeholders of rule issues early in the development phase. Stakeholders are encouraged to participate in committee and board meetings in which rules are drafted, discussed, or approved. Additionally, the board has established, by rule, provisions providing for any person to petition the board for the adoption of a rule. Finally, the board fully considers all written comments received during the statutory public comment period. Rule proposals and adoptions are posted on the board's website and regularly updated.

IV. Funding

Introductory Information

The Texas State Board of Examiners of Perfusionists is administratively attached to Texas Department of Health (TDH). TDH provides staff, facilities, and infrastructure necessary to accomplish the board's mission and functions. This unique arrangement has implications for much of the information requested in Section IV (Funding) and V (Organization) of this Self-Evaluation Report.

The board is funded through a shared appropriation to TDH to fund the C.1.1. strategy (Health Care Standards). The legislative appropriation is made to TDH, not to the board. The General Appropriations Act (GAA) does not contain a line-item appropriation to the board, in fact, the GAA does not mention the board. Consequently, the board does not prepare a Legislative Appropriations Request. All revenue and expenditures are processed, accounted for, tracked, and audited through the TDH budget, fiscal, and audit structures.

It is important to note that the fee revenues exceed the direct and indirect costs of operating the board's program.

Due to the absence of a legislative appropriation, the board is unable to hire staff or expend funds in its own name. The requested information regarding Equal Employment Opportunity statistics and policy, Historically Underutilized Business purchases, expenditures by strategy, objects of expense from the GAA, and FTE cap is not available by program. The information is available regarding TDH in an agency-wide format. Expenditure allocation tracking by program activity code in the Health and Human Services Accounting System (HHSAS) is the foundation for tracking program costs. Some information requested in Section IV (Funding) and V (Organization) is available in a format that is specific to the board, with some necessary modifications, and the modified information is submitted in this report.

<p>A. Describe the agency's process for determining budgetary needs and priorities.</p>
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For each of the 19 programs, TDH Professional Licensing and Certification Division management use the following process to project operating costs for the fiscal year. First salaries are projected using the labor account default percentages as an estimate of salary categories (direct staff, shared staff, investigation, testing, and general counsel.) Retirement and fringe benefits are projected based on the current percentage. Professional services and per diem (if board members receive it by law) are projected for services that each board will use during the year for special services such as testing, complaint review, and other specialized services. Travel costs are an estimate of the travel needed for board members and staff, based on the amount expended in prior years, current fiscal year needs, and the amount that the division’s total allocation can support per program. Other operating costs are projected costs for each program, such as postage, telephone, printing, office supplies, registrations, copier rental, equipment maintenance, training, and membership in the Health Professions Council. This is an estimate based on the amount expended in prior years and the amount that the division’s total allocation can support per program. Third party reimbursement is utilized to cover other operating costs for some programs. Information systems charges are an estimate based on a percentage of the prior year’s division total cost for infrastructure and direct program support billing. Indirect costs are projected based on the current percentage. Projected revenue is based on the prior year’s revenue and last year’s third party reimbursement (not all programs collect third party reimbursement.)

PLEASE FILL IN EACH OF THE CHARTS BELOW, USING EXACT DOLLAR AMOUNTS.

B. Show the agency's sources of revenue. Please include all local, state, and federal appropriations, all professional and operating fees, and all other sources of revenue collected by the agency.

Texas State Board of Examiners of Perfusionists Exhibit 5: Sources of Revenue — Fiscal Year 2002 (Actual)	
Source	Amount
General Revenue Fund	51,875
TOTAL	51,875

C. If you receive funds from multiple federal programs, show the types of federal funding sources.

Texas State Board of Examiners of Perfusionists Exhibit 6: Federal Funds — Fiscal Year 2002 (Actual)

Type of Fund	State/Federal Match Ratio	State Share	Federal Share	Total Funding
TOTAL		N/A		

D. If applicable, please provide detailed information on fees collected by the agency.

Texas State Board of Examiners of Perfusionists (Exhibit 7: Fee Revenue and Statutory Fee Levels — Fiscal Year 2002)				
Description/ Program/ Statutory Citation	Current Fee/ Statutory maximum	Number of persons or entities paying fee	Fee Revenue	Where Fee Revenue is Deposited (e.g., General Revenue Fund)
Application fee Occupations Code § 603.154	175.00/None	17	2,975	General Revenue Fund
Renewal fee Occupations Code § 603.154	175.00/None	257	44,975	General Revenue Fund
Upgrade fee Occupations Code § 603.154	75.00/None	2	150	General Revenue Fund
Provisional license fee Occupations Code § 603.154	175.00/None	18	3,150	General Revenue Fund

E. Show the agency's expenditures by strategy.

Please see the Section IV introductory information.

Texas State Board of Examiners of Perfusionists Exhibit 8: Expenditures by Strategy — Fiscal Year 2002 (Actual)	
Goal/Strategy	Amount
GRAND TOTAL:	



F. Show the agency's expenditures and FTEs by program.

Texas State Board of Examiners of Perfusionists Exhibit 9: Expenditures and FTEs by Program — Fiscal Year 2002 (Actual)					
Program	Budgeted FTEs, FY 2002	Actual FTEs as of August 31, 2002	Federal Funds Expended	State Funds Expended	Total Actual Expenditures
Licensing and regulation of perfusionists	.6	.6	N/A	34,467	34,467
TOTAL	.6	.6	N/A	34,467	34,467*

* This represents direct and investigations staff without fringe benefits or indirect cost rate applied.

G. Show the agency's objects of expense for each category of expense listed for your agency in the General Appropriations Act FY 2004-2005.

Please see the Section IV introductory information and also see Attachment 8. The board's funding is within the attached building block..

Texas State Board of Examiners of Perfusionists Exhibit 10: Objects of Expense by Program or Function -- Fiscal Year 2004			
Object-of-Expense Informational Listing	Strategy, Program, Division, or Function ____ (insert strategy, division or program name)	Strategy, Program, Division, or Function ____ (insert strategy, division or program name)	Strategy, Program, Division, or Function ____ (insert strategy, division or program name)
Total, FY 2004 Object-of-Expense Informational Listing			

Objects of Expense by Program or Function -- Fiscal Year 2005			
Object-of-Expense Informational Listing	Strategy, Program, Division, or Function ____ (insert strategy, division or program name)	Strategy, Program, Division, or Function ____ (insert strategy, division or program name)	Strategy, Program, Division, or Function ____ (insert strategy, division or program name)

Total, FY 2005 Object-of-Expense Informational Listing			

H. Please fill in the following chart.

Please see the Section IV introductory information.

Texas State Board of Examiners of Perfusionists Exhibit 11: Purchases from HUBs				
FISCAL YEAR 2000				
Category	Total \$ Spent	Total HUB \$ Spent	Percent	Statewide Goal
Heavy Construction				11.9%
Building Construction				26.1%
Special Trade				57.2%
Professional Services				20.0%
Other Services				33.0%
Commodities				12.6%
TOTAL				
FISCAL YEAR 2001				
Category	Total \$ Spent	Total HUB \$ Spent	Percent	Statewide Goal
Heavy Construction				11.9%
Building Construction				26.1%
Special Trade				57.2%
Professional Services				20.0%
Other Services				33.0%
Commodities				12.6%
TOTAL				
FISCAL YEAR 2002				
Category	Total \$ Spent	Total HUB \$ Spent	Percent	Statewide Goal
Heavy Construction				11.9%
Building Construction				26.1%
Special Trade				57.2%
Professional Services				20.0%
Other Services				33.0%

Commodities				12.6%
TOTAL				

I. Does the agency have a HUB policy? How does the agency address performance shortfalls related to the policy?

Please see the Section IV introductory information.

J. For agency with contracts valued at \$100,000 or more:

Not applicable

	Response / Agency Contact
Does your agency follow a HUB subcontracting plan to solicit bids, proposals, offers, or other applicable expressions of interest for subcontracting opportunities available under contracts of \$100,000 or more? (Tex. Government Code, Sec. 2161.252; TAC 111.14)	

K. For agencies with biennial appropriations exceeding \$10 million:

Not applicable

	Response / Agency Contact
Do you have a HUB coordinator? (Tex. Government Code, Sec. 2161.062; TAC 111.126)	
Has your agency designed a program of HUB forums in which businesses are invited to deliver presentations that demonstrate their capability to do business with your agency? (Tex. Government Code, Sec. 2161.066; TAC 111.127)	
Has your agency developed a mentor-protege program to foster long-term relationships between prime contractors and HUBs and to increase the ability of HUBs to contract with the state or to receive subcontracts under a state contract? (Tex. Government Code, Sec. 2161.065; TAC 111.128)	

V. Organization

Introduction

The Texas State Board of Examiners of Perfusionists is administratively attached to Texas Department of Health (TDH). TDH provides staff, facilities, and infrastructure necessary to accomplish the board's

mission and functions. This unique arrangement has implications for much of the information requested in Section IV (Funding) and V (Organization) of this Self-Evaluation Report.

The board is funded through a shared appropriation to TDH to fund the C.1.1. strategy (Health Care Standards). The legislative appropriation is made to TDH, not to the board. The General Appropriations Act (GAA) does not contain a line-item appropriation to the board, in fact, the GAA does not mention the board. Consequently, the board does not prepare a Legislative Appropriations Request. All revenue and expenditures are processed, accounted for, tracked, and audited through the TDH budget, fiscal, and audit structures.

It is important to note that the fee revenues exceed the direct and indirect costs of operating the board’s program.

Due to the absence of a legislative appropriation, the board is unable to hire staff or expend funds in its own name. The requested information regarding Equal Employment Opportunity statistics and policy, Historically Underutilized Business purchases, expenditures by strategy, objects of expense from the GAA, and FTE cap is not available by program. The information is available regarding TDH in an agency-wide format. Expenditure allocation tracking by program activity code in the Health and Human Services Accounting System (HHSAS) is the foundation for tracking program costs. Some information requested in Section IV (Funding) and V (Organization) is available in a format that is specific to the board, with some necessary modifications, and the modified information is submitted in this report.

A. Please fill in the chart below. If applicable, list field or regional offices.

Texas State Board of Examiners of Perfusionists Exhibit 12: FTEs by Location — Fiscal Year 2002			
Headquarters, Region, or Field Office	Location	Number of Budgeted FTEs, FY 2002	Number of Actual FTEs as of August 31, 2002
Central Headquarters Texas Department of Health	Austin	.6	.6
TOTAL		.6	.6

B. What was the agency’s FTE cap for fiscal years 2002 - 2005?

Please see the Section V introductory information.

C. How many temporary or contract employees did the agency have as of August 31, 2002?

None

D. Please fill in the chart below.

Please see the Section V introductory information.

Texas State Board of Examiners of Perfusionists							
Exhibit 13: Equal Employment Opportunity Statistics							
FISCAL YEAR 2000							
Job Category	Total Positions	Minority Workforce Percentages					
		Black		Hispanic		Female	
		Agency	Civilian Labor Force %	Agency	Civilian Labor Force %	Agency	Civilian Labor Force %
Officials/Administration			5%		8%		26%
Professional			7%		7%		44%
Technical			13%		14%		41%
Protective Services			13%		18%		15%
Para-Professionals			25%		30%		55%
Administrative Support			16%		17%		84%
Skilled Craft			11%		20%		8%
Service/Maintenance			19%		32%		27%

FISCAL YEAR 2001							
Job Category	Total Positions	Minority Workforce Percentages					
		Black		Hispanic		Female	
		Agency	Civilian Labor Force %	Agency	Civilian Labor Force %	Agency	Civilian Labor Force %
Officials/Administration			5%		8%		26%
Professional			7%		7%		44%
Technical			13%		14%		41%
Protective Services			13%		18%		15%
Para-Professionals			25%		30%		55%
Administrative Support			16%		17%		84%
Skilled Craft			11%		20%		8%
Service/Maintenance			19%		32%		27%

FISCAL YEAR 2002							
Job Category	Total Positions	Minority Workforce Percentages					
		Black		Hispanic		Female	
		Agency	Civilian Labor Force %	Agency	Civilian Labor Force %	Agency	Civilian Labor Force %

Officials/Administration			5%		8%		26%
Professional			7%		7%		44%
Technical			13%		14%		41%
Protective Services			13%		18%		15%
Para-Professionals			25%		30%		55%
Administrative Support			16%		17%		84%
Skilled Craft			11%		20%		8%
Service/Maintenance			19%		32%		27%

E. Does the agency have an equal employment opportunity policy? How does the agency address performance shortfalls related to the policy?

Please see the Section V introductory information.

VI. Guide to Agency Programs

A. Please complete the following chart.

Texas State Board of Examiners of Perfusionists Exhibit 14: Program or Function Information — Fiscal Year 2002	
Name of Program or Function	Licensing and Regulation of Perfusionists
Location/Division	Texas Department of Health/Professional Licensing and Certification Division
Contact Name	Pam Kaderka, Executive Secretary
Number of Budgeted FTEs, FY 2002	.6
Number of Actual FTEs as of August 31, 2002	.6

B. What are the key services of this function or program? Describe the major activities involved in providing all services.

Key services and activities are:

- rulemaking
- issuance of new, provisional, and renewal licenses to qualified applicants and perfusionists
- processing, evaluation, and approval of applications to become a licensed perfusionist or a provisionally licensed perfusionist
- processing of consumer complaints against perfusionists
- investigation and presentation of complaints to the Complaints Committee
- imposition of enforcement sanctions against licensees in violation of the law or rules

- provision of public information concerning the practice of perfusion and the regulation of the profession.

The Program Operating Plan for the board/program (July 2002) is included as Attachment 23. A revised POP will be available in Fall 2003 through the TDH website at <http://www.tdh.state.tx.us/oshp/pop/default.htm>.

C. When and for what purpose was the program or function created? Describe any statutory or other requirements for this program or function.

The functions were created in order to protect and promote public health, safety, and welfare. Texas Occupations Code, Chapter 603 sets out requirements for these functions. The functions were established by legislative action in 1993.

D. Describe any important history not included in the general agency history section, including a discussion of how the services or functions have changed from the original intent. Will there be a time when the mission will be accomplished and the program or function will no longer be needed?

The key functions of the Texas State Board of Examiners of Perfusionists are ongoing and will continue to be needed as long as Texas citizens require open heart surgical procedures. The regulation of perfusionists is intended to ensure that citizens are receiving the services of a qualified and competent perfusionist.

The services and functions have not changed from the original intent of the 1993 Act.

E. Describe who or what this program or function affects. List any qualifications or eligibility requirements for persons or entities affected. Provide a statistical breakdown of persons or entities affected.

The functions directly affect Texas consumers of perfusion services and Texas perfusionists. There are 267 licensed perfusionists and 29 provisionally licensed perfusionists. It is not known how many patients are served by those perfusionists.

Qualifications to become a perfusionist are set out in Occupations Code § 603.251 and board rules at 22 TAC §§ 761.8. Qualifications include completion of an approved perfusion education program and successful completion of the examination administered by the American Board of Cardiovascular Perfusion.

F. Describe how the program or function is administered. Include flowcharts, timelines, or other illustrations as necessary to describe agency policies and procedures. List any field or regional services.

Rulemaking processes are carried out in accordance with the Administrative Procedure Act.

The application process for perfusionist licensure is detailed in the flowchart labeled Attachment 24.

The renewal process is detailed in the flowchart labeled Attachment 25. The complaint processing and enforcement processes are detailed in the flowchart labeled as Attachment 26.

G. If the program or function works with local units of government, (e.g., Councils of Governments, Soil and Water Conservation Districts), please include a brief, general description of these entities and their relationship to the agency.

N/A

H. Identify all funding sources and amounts for the program or function, including federal grants and pass-through monies. Describe any funding formulas or funding conventions. For state funding sources, please specify (e.g., general revenue, appropriations rider, budget strategy, fees/dues).

General revenue fund \$51,875

I. Are current and future funding resources appropriate to achieve program mission, goals, objectives, and performance targets? Explain.

Overall, current funding resources are appropriate to achieve the program’s mission and goals.

J. Identify any programs internal or external to the agency that provide identical or similar services or functions. Describe the similarities and differences.

There are no other state government programs engaged in the regulation of perfusionists.

K. Discuss how the program or function is coordinating its activities to avoid duplication or conflict with the other programs listed in Question J and with the agency’s customers. If applicable, briefly discuss any memorandums of understanding (MOUs), interagency agreements, or interagency contracts.

N/A

L. Please provide any additional information needed to gain a preliminary understanding of the program or function.

M. Regulatory programs relate to the licensing, registration, certification, or permitting of a person, business, or other entity. If this is a regulatory program, please describe:

- why the regulation is needed;
- the scope of, and procedures for, inspections or audits of regulated entities;
- follow-up activities conducted when non-compliance is identified;
- sanctions available to the agency to ensure compliance; and
- procedures for handling consumer/public complaints against regulated entities.

The regulation of perfusionists is necessary as a means to protect and promote public health, safety, and welfare. The regulation of perfusionists is intended to ensure that persons requiring open heart surgical procedures in which perfusion is necessary are receiving the services of a qualified and competent perfusionist.

The Licensed Perfusionists Act does not provide authority for routine inspections or compliance audits of the worksites of perfusionists. The board does audit a percentage of licensees regarding continuing education compliance. When a jurisdictional consumer complaint is filed, the matter is investigated. Any violations of law or rule verified through a complaint investigation are presented to the Complaints Committee for consideration and the imposition of disciplinary action, if appropriate.

When non-compliance is identified, a number of follow-up actions may be taken. In a complaint matter, the perfusionist could be required to complete additional training or continuing education in addition to enforcement sanctions such as probation or suspension. Program staff monitor enforcement orders and report non-compliance to the Complaints Committee for additional action. If another complaint is received or if there is reason to believe the problem has not been resolved, program staff re-investigate and provide additional investigative results to the Complaints Committee for action.

The Texas State Board of Examiners of Perfusionists is authorized to impose a broad range of enforcement sanctions to ensure compliance with the Act and rules. These include application or renewal application denial, administrative penalties, emergency suspension, civil and criminal penalty, reprimands, suspension, probation, and revocation. Additionally, the Board may resolve contested cases through the use of agreed orders, requirements for additional education, and practice limitations. (See Occupations Code §§ 503.401 - 403.)

Procedures for handling consumer complaints against perfusionists are illustrated in the flowchart labeled Attachment 26.

N. Please fill in the following chart for each regulatory program. The chart headings may be changed if needed to better reflect the agency's practices.

Texas State Board of Examiners of Perfusionists		
Exhibit 15: Complaints <u>Against</u> Regulated Entities or Persons – Fiscal Years 2001 and 2002		
	FY 2001	FY 2002
Number of complaints received	1	0
Number of complaints resolved	0	0
Number of complaints dropped/found to be without merit	0	0
Number of sanctions	0	0
Number of complaints pending from prior years	0	0
Average time period for resolution of a complaint	0	0
Number of entities inspected or audited by the agency	0	0
Total number of entities or persons regulated by the agency	269	308

VII. Agency Performance Evaluation

A. What are the agency's most significant accomplishments?

Regulatory Program Implementation The Licensed Perfusionists Act became effective on January 1, 1994. Board members were appointed later that year and the first board meeting was held September 15, 1994 in Austin, Texas. Emergency rules were in place on January 1, 1995 and final rules were adopted on April 18, 1995. Early program activities were focused on rulemaking; the creation of forms, licenses, and public information; and processing license applications during the “grandfather period,” which ended on September 1, 1995. A person actively engaged in perfusion on January 1, 1993 received a license without examination under certain conditions. Approximately 121 licenses were issued during the grandfather period. Later activities focused on rulemaking and implementation of processes related to continuing education, licensure examinations, and complaints/enforcement.

Compliance and Public Information In 1996, the board directed staff to produce annual mailings to Texas hospitals to include the Perfusionist Act and rules, information regarding the perfusionist license requirement, the code of ethics for the practice of perfusion, practice limitations on provisionally licensed perfusionists, and rosters of licensed and provisionally licensed perfusionists. The mailings continued for several years as a means to reinforce for stakeholders the board’s purpose and statutory mandate. The response from the mailings and information was overwhelmingly positive and a corresponding reduction in the number of complaints was noted. These mailings, along with similar information provided directly

to licensed perfusionists, have been instrumental in securing compliance with the licensing law and the code of ethics set out by board rule.

B. Describe the internal process used to evaluate agency performance, including how often performance is formally evaluated and how the resulting information is used by the policymaking body, management, the public, and customers.

At each board meeting, members are briefed by the division director on budgetary matters (relating specifically to the board and to the Professional Licensing and Certification Division), relevant legislation (proposed or passed), legal opinions, and current policy issues. The program administrator also provides a report regarding programmatic issues at each meeting. As policy or other issues develop (Sunset Review, PLCD reorganization), program staff update board members by e-mail.

Shared performance measure reporting associated with the appropriation to TDH in the C.1.1. strategy (Health Care Standards) is compiled quarterly. This information includes the number of new applications and renewal applications processed, the number of jurisdictional complaints received, the number of jurisdictional complaints resolved, the number and types of disciplinary action taken, and the average number of days required to resolve a complaint. The annual report of the Health Professions Council provides similar information for the Texas State Board of Examiners of Perfusionists and is distributed to board members. The report is an opportunity for the board to assess its performance in those areas and provides statistical information used for staffing and resource allocations.

Program staff are evaluated by TDH in accordance with agency policy and procedure. The Professional Licensing and Certification Division also performs specific activities related to assessing customer service, including a customer comment survey. Survey results in summary form are provided to the staff and board for analysis and improvements.

C. What are the agency's biggest opportunities for improvement?

The board has opportunities for improvement in license application and license renewal processing. Senate Bill 1152 (78th Leg.) requires Texas Department of Health and its programs to participate in the Texas Online project administered by the Texas Online Authority through the Department of Information Resources (DIR). TDH staff met with DIR representatives in July 2003 to discuss implementation of online application and renewal processing for perfusionists, as well as other TDH regulatory programs. DIR is moving forward with the initiative and the board will be providing baseline information for the project during the fall of 2003. Other licensing agencies currently using the online renewal system are realizing significant efficiencies and cost savings associated with online renewals.

An opportunity for improvement in terms of the program's placement within the Professional Licensing and Certification Division (PLCD) is currently underway. In June 2003, division management implemented a functional reorganization plan to better position the licensing and certification programs to implement legislative initiatives, address concerns arising from a reduced budget, and assimilate duties of retiring positions. The division has been organized along programmatic lines since its inception in 1985. The current plan to reorganize division staff (61 FTEs) based on function is scheduled for implementation on September 1, 2003. The reorganization will be closely monitored, evaluated, and adjusted as necessary during a 120-day transition period that ends December 31, 2003. The division's Reorganization Implementation Team, made up of division supervisors, managers, and program

administrators, is charged with implementation and evaluation. The Reorganization Plan is labeled as Attachment 29.

D. How does the agency ensure its functions do not duplicate those of other entities?

There are no other entities involved the regulation of perfusionists in Texas.

E. Are there any other entities that could perform any of the agency's functions?

No. Perfusion is a unique discipline in the field of health care.

F. What process does the agency use to determine customer satisfaction and how does the agency use this information?

Customer surveys are provided with renewed licenses. The information is analyzed and maintained by PLCD staff and forwarded to board staff for review by the board. Survey cards bearing a name or identifying information that request or require a response are a high priority for staff.

All specific and general suggestions for improvements or complaints are considered when the survey is received. The information is then provided to the board. The board and staff believe that customer feedback and satisfaction levels are important indicators of the need to clarify or simplify licensing processes.

G. Describe the agency's process for handling complaints against the agency, including the maintenance of complaint files and procedures for keeping parties informed about the process. If the agency has a division or office, such as an ombudsman, for tracking and resolving complaints from the public or other entities, please provide a description.

Due to the board's organizational placement, the customer service policies and procedures of TDH apply. Please see Attachment 27 (TDH Complaint Resolution Policy and Procedures) and Attachment 28 (TDH Compact with Texans.)

H. Please fill in the following chart. The chart headings may be changed if needed to better reflect the agency's practices.

The information requested in Exhibit 16 for complaints filed against the board is not available. Due to the board's organizational placement within the larger structure of TDH, the information is not maintained at the program level. Please see Attachment 30 (*Customer Service at the Texas Department of Health for Fiscal Years 2000-2002.*)

Texas State Board of Examiners of Perfusionists Exhibit 16: Complaints <u>Against the Agency</u> – Fiscal Years 2001 and 2002		
	FY 2001	FY 2002

Number of complaints received		
Number of complaints resolved		
Number of complaints dropped/found to be without merit		
Number of complaints pending from prior years		
Average time period for resolution of a complaint		

<p>I. What process does the agency use to respond to requests under the Public Information (Open Records) Act?</p>

Requests under the Public Information Act are processed in accordance with TDH Operating Procedure OP-1355 (Handling Requests for Public Information), the TDH Procedural Checklist for Public Information Requests, and the Public Information Act. Please see Attachment 21.

J. Please fill in the following chart with updated information and be sure to include the most recent e-mail address if possible.

Texas State Board of Examiners of Perfusionists Exhibit 17: Contacts			
INTEREST GROUPS (groups affected by agency actions or that represent others served by or affected by agency actions)			
Group or Association Name/ Contact Person	Address	Telephone & Fax Numbers	E-mail Address
INTERAGENCY, INTRA-AGENCY, STATE, OR NATIONAL ASSOCIATIONS (that serve as an information clearinghouse or regularly interact with the agency)			
Group or Association Name/ Contact Person	Address	Telephone & Fax Numbers	E-mail Address
American Board of Cardiovascular Perfusion Beth Richmond	207 N. 25 th Avenue Hattiesburg MS 39401	(601) 582-2227 (601) 582-2271 fax	abcp@abcp.org www.abcp.org
American Society of Extra- Corporeal Technology Bob Reinshuttle, Government Relations Director	503 Carlisle Dr Suite 125 Herndon VA 20170	(703) 435-8556 (703) 435-0056 fax	govtrel@ amsect.org www.amsect.org
LIAISONS AT OTHER STATE AGENCIES (with which the agency maintains an ongoing relationship, e.g., the agency's assigned analyst at the Legislative Budget Board, or attorney at the Attorney General's office)			
Texas State Board of Examiners of Perfusionists/Relationship/ Contact Person	Address	Telephone & Fax Numbers	E-mail Address
Office of the Governor Appointments Division Polly Sowell	P.O. Box 12428 Austin TX 78711	(512) 463-2000	
Health Professions Council Charles Horton, Administrative Officer	333 Guadalupe Street, Tower 2, Suite 220 Austin TX 78701-3942	(512) 305-8550 (512) 305-8553	Charles.Horton@ hpc.state.tx.us

VIII. 78th Legislative Session Chart

Fill in the chart below or attach information if it is already available in an agency-developed format. In addition to summarizing the key provisions, please provide the intent of the legislation. For example, if a bill establishes a new regulatory program, please explain why the new program is necessary (e.g., to address specific health and safety concerns, or to meet federal mandates). For bills that did not pass, please briefly explain the issues that resulted in failure of the bill to pass (e.g., opposition to a new fee, or high cost of implementation).

Texas State Board of Examiners of Perfusionists Exhibit 18: 78th Legislative Session Chart		
Legislation Enacted - 78th Legislative Session		
Bill Number	Author	Summary of Key Provisions/Intent
HB 2985	Capelo	Relating to the establishment of an office of patient protection within the Health Professions Council
HB 2292	Wohlgemuth	Reorganizes the Health and Human Services enterprise, including reorganization and consolidation activities at the Texas Department of Health (TDH.) Requires that all licenses issued by TDH, or any entity attached to TDH, be issued for a term of two years effective January 1, 2005. Requires that all TDH licensing programs set fees in amounts designed to recover from license holders all direct and indirect costs of the licensing program.
SB 161	Nelson	Relating to the granting of certain enforcement sanctions to TDH licensing programs. The bill grants the Texas State Board of Examiners of Perfusionists emergency suspension and administrative penalty authority and adds a civil penalty for violations.
HB 660	Allen	Grants specific authority to TDH to perform both DPS and FBI criminal history record checks.
SB 1152	Shapleigh	Relating to the use of Texas Online. Requires TDH to participate in online license application and renewal functions.
Legislation Not Passed - 78th Legislative Session		
Bill Number	Author	Summary of Key Provisions/Intent/Reason the Bill did not Pass
None		

IX. Policy Issues

A. Brief Description of Issue

Should the Texas State Board of Examiners of Perfusionists remain within TDH, be moved to another agency, or reconfigured to serve in an advisory capacity to another board or commission within the Texas Health and Human Services system?

B. Discussion

Two recent studies related to the TDH Professional Licensing and Certification Division (PLCD) have examined the different regulatory models housed within PLCD (and state government generally.) See *Report on Texas Department of Health Regulatory Programs, Recommendations for Consolidating, Restructuring, or Moving Health-Related Regulatory Programs, December 15, 2000*, Texas Health and Human Services Commission; and *Texas Department of Health Business Practices Evaluation*, Elton Bomer, Consultant, August 31, 2001.

Both reports examined challenges associated with an umbrella agency housing regulatory boards and programs that possess certain authority independent of the umbrella agency's authority. The Bomer report found that "independent boards, functioning as quasi-agencies unto themselves, yet operating within the structure of a larger agency, are a fundamental organizational mistake."

The HHSC report examined five models for organizing regulatory programs and identified challenges associated with the TDH administration of PLCD regulatory programs. One of the commission's recommendations was to give "more of a voice" in decisions "related to policy, budget, and Legislative Appropriations Requests" to the licensing, certification, and advisory boards administratively attached to TDH. The commission's rationale for the recommendation follows:

The programs attached to the Professional Licensing and Certification Division are required to raise the revenue to operate their programs from the professionals they regulate. Yet independent boards have not routinely been involved in major decisions such as Legislative Appropriations Requests, development of the agency Five-Year Strategic Plan, and establishment of annual operating budgets. TDH has established the principle that the executive director of each program will bring any funding needs, issues, or concerns to TDH management. This has not proven to be sufficient in the opinions of members of the boards, committees, advisory bodies, and HHSC. Additional mechanisms should be developed to improve two-way communication – both from TDH to the statutorily established bodies, and from those bodies to TDH. Such mechanisms should include opportunities for the statutorily established bodies to have periodic access to the Board of Health.

The TDH Associate Commissioner for Health Care Quality and Standards (now Consumer Health Protection) formed the Council of Independent Licensing Board Chairs in 2001 in response to recommendations in the HHSC report and as a means to enhance communication between administratively attached boards and TDH senior management. The Council meets several times a year to discuss issues of mutual concern, to directly address problem areas with TDH senior management, and to recommend solutions to common challenges. The Council also met with members of the Texas Board of Health for a luncheon in 2002.

The commission also recommended “TDH should examine its regulatory programs and determine which ones could benefit from being functionally organized. It may be possible in some cases to combine staff in different programs performing similar activities to carry out common practices, such as licensing, investigations, enforcement, and compliance.” The commission’s rationale was “There may be opportunities for the regulatory programs at TDH to share additional costs and functions by organizing like programs along functional lines. Such arrangements have been demonstrated to be effective and efficient alternatives to having distinct and perhaps duplicative functions when organizing along program lines.”

C. Possible Solutions and Impact

The board is functioning effectively within Texas Department of Health. If the boards and programs of the Professional Licensing and Certification Division are transferred to a new or existing licensing agency in the future, the Texas State Board of Examiners of Perfusionists should be transferred with them at that time.

A recent functional reorganization of the TDH Professional Licensing and Certification Division is anticipated to increase efficiencies in perfusionist regulation through the use of shared resources. The Bomer report indicated that independent and quasi-independent boards should be converted to TDH advisory committees, which would result in efficiencies to be achieved through consolidation and uniformity. However, those efficiencies are anticipated through the division’s functional reorganization, which is being implemented within the current statutory framework.

An examination of the different regulatory models set out in the HHSC Report illustrates the options for placement of regulatory programs within state government. The models include regulatory programs as autonomous boards, boards with shared administrative functions, administratively attached boards with shared authority, administratively attached boards with limited authority, and centralized licensing agencies. Each model has perceived advantages and disadvantages in terms of cost-effectiveness, effective consumer protection, and effective professional regulation.